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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on January 15, 2013.

Date of Meeting: May 8, 2012

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:33 p.m., on Tuesday, May 8, 2012 all members having been notified of the time and place thereof.

### **1. ROLL CALL**

The meeting was called to order by Mayor Rothschild and upon roll call, those present and absent were:

Present:

Regina Romero  
Paul Cunningham  
Karin Uhlich  
Shirley C. Scott  
Richard G. Fimbres  
Steve Kozachik  
Jonathan Rothschild

Council Member Ward 1  
Council Member Ward 2  
Council Member Ward 3  
Council Member Ward 4  
Council Member Ward 5  
Vice Mayor, Council Member Ward 6  
Mayor

Absent/Excused:

None

Staff Members Present:

Richard Miranda  
Michael Rankin  
Roger W. Randolph

City Manager  
City Attorney  
City Clerk

## **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by James Allerton, Pima County Sheriff's Department, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Rothschild proclaimed May as "Building Safety Month." Ernie Duarte, Planning and Development Services Director, accepted the proclamation.
- b. Mayor Rothschild presented three awards from The Arizona Chapter of the American Public Works Association Southern Arizona Branch to the City of Tucson Department of Transportation:
  - 1) The Public Works Professional Award of Merit for 2012 was accepted by Fred Felix, Engineering Project Manager
  - 2) The Outstanding Small Size Public Works Project Award for 2012 was accepted by Tony Paez, Interim Director of Transportation
  - 3) The Southern Arizona Branch Outstanding Large Size Public Works Project Award for 2012 was accepted by George Caria on behalf of Sun Tran.
- c. Mayor Rothschild presented two awards from the Arizona Transit Association and the Arizona Department of Transportation to the City of Tucson Department of Transportation. The 2012 Excellence Award for the Outstanding Training Program and the 2012 Excellence Award for the Outstanding Transit Organization to Sun Tran were accepted by employees from the Department of Transportation.

## **3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Rothschild announced City Manager's communication number 158, dated May 8, 2012, was received into and made part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

Current event reports were provided by Council Members Romero, Cunningham, Scott, Fimbres, and Vice Mayor Kozachik. A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

## **4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Rothschild announced City Manager's communication number 159, dated May 8, 2012, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

No report was given.

## 5. LIQUOR LICENSE APPLICATIONS

Mayor Rothschild announced City Manager's communication number 166, dated May 8, 2012, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

### b. Liquor License Application(s)

#### New License(s)

NOTE: There are no application(s) for new licenses scheduled for this meeting.

#### Person Transfer(s)

2. Unicorn Sports Lounge, Ward 4  
8060 E. 22nd St. #118  
Applicant: Beatrice Mae Garrison  
Series 6, City 27-12  
Action must be taken by: May 21, 2012

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a person to person transfer, Mayor and Council may consider the applicant's capability, qualifications and reliability. (A.R.S. Section 4-203)

3. Tucson Tamale Company, Ward 6  
2545 E. Broadway Blvd.  
Applicant: Todd Russell Martin  
Series 7, City 26-12  
Action must be taken by: May 18, 2012

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a person and location transfer, Mayor and Council may consider both the applicant's capability, qualifications, reliability and location issues. (A.R.S. Section 4-203; R19-1-102)

### c. Special Event(s)

1. Blair Charity Group, Ward 6  
445 S. Alvernon Way  
Applicant: Joseph J. Blair  
City T44-12  
Date of Event: May 11, 2012  
(Fundraiser)

Staff has indicated the applicant is in compliance with city requirements.

2. Southern Arizona Aids Foundation, Ward 1  
3700 S. La Cholla Blvd.  
Applicant: Monique Marie Vallery  
City T45-12  
Date of Event: May 12, 2012  
(Fundraiser)

Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change/Acquisition of Control

NOTE: There are no application(s) for agent changes scheduled for this meeting.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b2 through 5b3 and 5c1 through 5c2 to the Arizona State Liquor Board with a recommendation for approval.

**6. CALL TO THE AUDIENCE**

Mayor Rothschild announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

Mayor Rothschild also announced that pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

Comments were made by:

Ruth Beeker	Ken Johnson	Shirletta Sanders
Robert Reus	Bill Viner	Mikki Niemi
Susan Caldwell	Araceli Esquivel	Judith Gray
Keith Van Heyningen	John Farbarik	Arvin Fike

Council Member Romero asked the City Manager to send an explanatory note to the First Tee Executive Director letting her know they were not in danger of being shut down or closed.

A recording of this item is available from the City Clerk’s Office for ten years from the date of this meeting.

## **7. CONSENT AGENDA – ITEMS A THROUGH E**

Mayor Rothschild announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made part of the record. He asked the City Clerk to read the Consent Agenda.

### **a. APPROVAL OF MINUTES**

1. Report from City Manager MAY08-12-164 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of October 25, 2011

### **b. ZONING: (D08-0019) EXTENDING PROTECTED DEVELOPMENT RIGHTS ON THE DEVELOPMENT PLAN FOR HOLIDAY INN EXPRESS WHICH WAS PREVIOUSLY APPROVED AS A PROTECTED DEVELOPMENT RIGHT PLAN**

1. Report from City Manager MAY08-12-163 WARD 5
2. Resolution No. 21888 relating to zoning: extending protected development rights on the development plan for Holiday Inn Express (D08-0019) which was previously approved as a protected development right plan; and declaring an emergency.

### **c. ZONING: (S07-025) EXTENDING PROTECTED DEVELOPMENT RIGHTS ON THE TENTATIVE AND FINAL PLATS FOR WILMOT/ I-10 COMMERCIAL CENTER WHICH WERE PREVIOUSLY APPROVED AS A PROTECTED DEVELOPMENT RIGHT PLAN**

1. Report from City Manager MAY08-12-162 WARD 5
2. Resolution No. 21887 relating to zoning: extending protected development rights on the tentative and final plats for Wilmot/I-10 Commercial Center (S07-025) which were previously approved as a protected development right plan; and declaring an emergency.

### **d. FINAL PLAT: (S12-015) PLAZA CENTRO - RAILYARD, UNITS 1 THROUGH 12, COMMON ELEMENT “1” AND COMMON ELEMENT “2”**

1. Report from City Manager MAY08-12-161 WARD 6
2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

e. FINAL PLAT: (S10-051) SILVERBELL CORNER, LOTS 1 AND 2

1. Report from City Manager MAY08-12-160 WARD 1
2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

It was moved by Vice Mayor Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – e be passed and adopted and the proper action taken.

Roger W. Randolph, City Clerk, announced that staff requested that the Mayor and Council consider Item 9 before Item 8.

**9. PUBLIC HEARING: APPROVING A SUBSTANTIAL PLAN AMENDMENT TO THE CITY OF TUCSON FISCAL YEAR 2012 ANNUAL ACTION PLAN**

(NOTE: This item was taken out of order)

Mayor Rothschild announced City Manager's communication number 172, dated May 8, 2012, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing to consider the substantial amendment to the City Of Tucson's Fiscal Year 2012 Annual Action Plan. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked if there was anyone wishing to be heard on the item.

There were no speakers.

It was moved by Council Member Cunningham, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Rothschild asked the City Clerk to read Resolution 21892 by number and title only.

Resolution No. 21892 relating to Housing and Community Development; approving a Substantial Plan Amendment to the 2012 Annual Action Plan to include changes to Neighborhood Stabilization Program (NSP) 3 Funds; Homelessness and Rapid Rehousing Program (HPRP); Emergency Solutions Grant (ESG); and the Accelerated CDBG Project Program; authorizing and directing submittal of the Substantial Plan Amendment to the United States Department of Housing and Urban Development (HUD); and declaring an emergency.

It was moved by Council Member Uhlich, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Resolution 21892.

**8. PUBLIC HEARING: APPROVING THE FISCAL YEAR 2013 ANNUAL ACTION PLAN**

Mayor Rothschild announced City Manager's communication number 170, dated May 8, 2012, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing to consider the City Of Tucson's Fiscal Year 2013 Annual Action Plan. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Mikki Niemi spoke about his requests to the Housing and Community Development Department that had gone unanswered.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Rothschild asked the City Clerk to read Resolution 21891 by number and title only.

Resolution No. 21891 relating to Public Housing; approving the City of Tucson Annual Action Plan for Fiscal Year 2013; authorizing and directing submittal of that plan to the United States Department of Housing and Urban Development (HUD); and declaring an emergency.

Council Member Cunningham requested that the City Manager ensure Mikki Niemi's inquires received a response.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Resolution 21891.

**9. PUBLIC HEARING: APPROVING A SUBSTANTIAL PLAN AMENDMENT TO THE CITY OF TUCSON FISCAL YEAR 2012 ANNUAL ACTION PLAN**

(NOTE: This item was taken out of order and discussed after Item #7.)

**10. PUBLIC HEARING: CITY OF TUCSON RECOMMENDED ANNUAL BUDGET FOR FISCAL YEAR 2013**

Mayor Rothschild announced City Manager's communication number 168, dated May 8, 2012, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing to consider the Fiscal Year 2013 Recommended Budget. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

Michael Coiro, American Federation of State, County & Municipal Employees (AFSCME) Executive Director, spoke in support of pay raises for blue collar workers and that they be fair and equitable across all departments. He spoke about the merit system and asked the Mayor and Council to re-evaluate and consider the reinstitution it.

Mikki Niemi spoke on balancing the budget and being more efficient without using more Certificates of Participation (COPs).

Robert Reus spoke on sales tax equity and the way it should be configured.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Rothschild announced the tentative adoption of the Fiscal Year 2013 Budget was scheduled for May 15, 2012. He stated another legally required public hearing was scheduled for June 5, 2012 on the Budget as tentatively adopted at the May 15, 2012, Mayor and Council meeting.

#### **11. CITY MANAGER: APPOINTMENT OF THE CITY MANAGER**

Mayor Rothschild announced City Manager's communication number 169, dated May 8, 2012, was received into and made part of the record. He asked the City Clerk to read Ordinance 10979 by number and title only.

Ordinance No. 10979 relating to the City Manager: appointing a City Manager; authorizing and approving the agreement with the City Manager; and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 10979 naming Richard Miranda as City Manager.

Richard Miranda, City Manager, thanked the Mayor and Council for their confidence in him. He said he saw his role as a responsibility to encourage an environment of leadership that provided quality service to the citizens of Tucson.

#### **12. ZONING: (C9-11-08) EVERGREEN-DEVCO – FIRST AVENUE, NR-1 AND NR-2 TO C-1, ORDINANCE ADOPTION**

Mayor Rothschild announced City Manager's communication number 165, dated May 8, 2012, was received into and made part of the record. He asked the City Clerk to read Ordinance 10978 by number and title only.

Ordinance No. 10978 relating to zoning: amending zoning district boundaries in the area located between First Avenue and Hampton Street approximately 200 feet south of Grant Road in Case C9-11-08 Evergreen-Devco - First Avenue, NR-1 and NR-2 to C-1; and setting an effective date.



It was moved by Council Member Uhlich, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 10978.

**13. ZONING: AMENDING ORDINANCE NO. 10969 TO CHANGE THE EFFECTIVE DATE OF A PORTION OF THE MAIN GATE DISTRICT OPTIONAL URBAN OVERLAY DISTRICT**

Mayor Rothschild announced City Manager's communication number 171, dated May 8, 2012, was received into and made part of the record. He asked the City Clerk to read Ordinance 10980 by number and title only.

Ordinance No. 10980 relating to Zoning: amending Section 1 of Ordinance No. 10969 to change the effective date of the portion of the Main Gate District Optional Urban Overlay District bounded by Speedway, Tyndall, Euclid and 1st Street; and declaring an emergency.

Michael Rankin, City Attorney, stated the Ordinance extended the effective date for the "discussion area." He said the direction from the Mayor and Council on April 3, 2012, provided for some extra time to engage in a process to examine the "discussion area" so the Zoning Examiner could conduct an appropriate hearing to receiving input and provide recommendations to the Mayor and Council about any recommended modifications within that area.

Mr. Rankin that direction, staff did not know what the changes or recommendations might be. He said staff engaged in the process and created the time through the extension of the effective date of April 3, 2012. He stated the reason the Ordinance was being presented that evening was because it would again extend the effective date for the defined area out and gave staff an opportunity, if the Mayor and Council was comfortable with the Zoning Examiner's recommendations or if they had other suggestions and/or changes, staff could give specific notice as to those proposed changes which would be carried forward as any other zoning amendment.

Mr. Rankin stated if instead the Mayor and Council chose to simply have the entirety of the Urban Overlay District (UOD) Ordinance go into affect as initially adopted on February 28, 2012, including the discussion area, then there was no action needed that evening; it would happen by default because the effective date extension was only until May 9, 2012.

Vice Mayor Kozachik verified with Mr. Rankin that he was looking for the Zoning Examiner's recommendation or specific changes so a subsequent public hearing could be scheduled.

Mr. Rankin answered affirmatively and explained what the process would be.

Vice Mayor Kozachik thanked all the participants that had been through the process. There was an open dialogue that was engaged and he said he appreciated the

input provided by Linus Kafka, Zoning Examiner and Ernie Duarte, Planning and Development Services Department Director. He said it had not been easy and no one got everything they wanted, but that was the nature of compromise.

Vice Mayor Kozachik said on page 2 there were the bungalows on Euclid Avenue, the ones on Speedway Boulevard and the non-historic properties. He asked the Zoning Examiner for an explanation regarding the historical bungalows that occupied properties that could accommodate additional and new development without de-listing them. He also asked what the design review process was for those properties.

Linus Kafka, Zoning Examiner, stated testimony at his hearing by the historical preservation officer that suggested there was some development that could be adjacent to and behind the properties on Euclid Avenue that would be separate from the bungalows physically and could be designed and built in such a way as to not de-list. He explained that delisting meant they would be removed from contributing properties on the National Register of Historical Places list. The development, by nature, would not affect the architectural integrity of the bungalows or of the properties in the neighborhoods.

Mr. Kafka answered that the design review process was the one specified in the Main Gate District (MGD) which involved a design review committee, certain assessments of compatibility, and certain investigations of design. He said development would not be precluded for the properties; it had to meet the standard of not de-listing the street facing property.

Vice Mayor Kozachik said he wanted to confirm what Mr. Kafka was saying in that there was some proposed changes to the MGD specifically with respect to the Euclid Avenue historic properties, dropping the maximum height from six stories to forty feet, however, if demolition or de-listing occurred it pulled the property out of the overlay provisions.

Mr. Kafka stated that was correct. He said the reason forty feet was chosen was because that was the tipping point where adjacent development would de-list the property. He said going higher than forty feet would probably de-list the front property.

Vice Mayor Kozachik confirmed the historic properties were proposed to drop down from six stories to forty feet at the Euclid Avenue and Speedway property and to fifty six feet west of the alley and that the Design Review Committee (DRC) would review for compatibility and scale.

Mr. Kafka answered affirmatively assuming those properties went through the demolition process.

Vice Mayor Kozachik said moving towards the non-historic properties, the Main Gate heights ranged from eighty-four feet at Speedway Boulevard and Tyndall Avenue to one hundred forty-four feet at the center of the Tyndall parcel and one hundred fifty-nine

feet at the Tyndall Avenue and First Street property. He asked if that was the Zoning Examiner's starting point.

Mr. Kafka answered affirmatively.

Vice Mayor Kozachik said the "discussion area" was really where the Main Gate transition area transitioned to the west of Tyndall Avenue and by pulling it aside they were considering it in a fundamentally different context than the rest of the area as it was closest to the West University Neighborhood and to Euclid Avenue. He said to achieve that gentler alignment, the Zoning Examiner had proposed dropping heights to fifty-six feet at Speedway Boulevard and Tyndall Avenue, eighty-four feet at the center parcel and ninety feet, subject to the Design Review Committee and approval of a special transition plan with regard to adjacent properties.

Mr. Kafka stated that was correct.

Vice Mayor Kozachik stated the Mayor and Council were left with the consideration of either keeping the eighty-four, one forty-four and one fifty-nine or dropping them. He said those parcels would then go through a more significant review process or just set the height at fifty-six, eighty-four and ninety.

Mr. Kafka stated Vice Mayor was correct and that they would have to go through the MGD standard review at any height, but for this Ordinance, the heights of fifty-six, eighty-four and ninety were set for an enhanced review subject to the DRC and the design professional. He said those were the heights where the West University Neighborhood Association began. He said the recommendation that night was to allow for more community input if the proposed development went above what the community had already expressed as the standard.

Discussion continued.

It was moved by Vice Mayor Kozachik, duly seconded, to pass and adopt Ordinance No. 10980 and approve the Zoning Examiner's recommendations as they relate to the historic contributing structures on Euclid Avenue and Speedway Boulevard and for the non-historic structures to set the maximum heights at fifty-six feet for Speedway Boulevard/Tyndall Avenue, eighty-four feet for Center Parcel and ninety feet for Tyndall Avenue/ First Street.

Mayor Rothschild asked if there was any discussion.

Council Member Uhlich discussed giving the Zoning Examiner further opportunity to refine the guidelines so the community could benefit from more guidelines. She addressed her concerns about the height restrictions and her thoughts of having better infill planning processes for the future. She asked if there were other areas where better clarity or specificity was need from the Mayor and Council in moving towards the next step.

Mr. Kafka replied saying no and that he thought the direction in height provided clarity for further discussion. He stated what was productive from further comments was nature of additional community input in DRC work.

Council Member Uhlich said the big challenge on the whole planning area had been the process and the Mayor and Council had remanded it back to the Zoning Examiner to help with the process. She said there was a specific request to extend the process through August 8, 2012. By providing the specificity on heights, what she wanted to avoid was another round of community backlash for circumventing the process and not allowing the community to sort the changes out. She asked what challenges the Zoning Examiner saw in the Mayor and Council taking the definitive step then as compared to waiting until August.

Mr. Kafka deferred to the City Attorney.

Mr. Rankin said the motion offered enough specificity in order to appropriately notice the public hearing in front of the Zoning Examiner and subsequently a hearing in front of the Mayor and Council to finally adopt an amendment to the MGD that was the final decision of the Mayor and Council. He continued saying what staff would do was take the direction and draft an ordinance amendment that would then be part of the public notice.

Mr. Rankin said people could come and comment at the Zoning Examiner's hearing. If the Zoning Examiner, based on comments at that hearing, made a recommendation that needed to be adjusted in some way and included that in his report to the Mayor and Council they could still make changes, but the City would have had the opportunity to appropriately notice it so people knew what kind of changes were under consideration. He said it would not set a cap but the specificity helped the City get the appropriate notice out.

Council Member Uhlich said she was supportive of the motion and she wanted to make it clear that the process had set them up for some difficulty moving forward on future infill planning. She said while the steps helped to get them on the right track in the Main Gate area, she hoped with upcoming projects in the central area they could work with colleagues and staff to look at a way to approach them to avoid what the community had experienced in the Main Gate District.

Council Member Romero thanked staff for their hard work and spoke in support of Council Member Uhlich on the planning processes as well as communicating with communities and preservationists when planning.

Ordinance No. 10980, as amended, was declared passed and adopted by a roll call vote of 7 to 0.

**14. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH PROPERTY OWNERS WITHIN THE HVF ANNEXATION DISTRICT**

Roger W. Randolph, City Clerk, announced that staff requested this item be continued until further notice.

**15. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS**

Mayor Rothschild announced City Manager's communication number 167, dated May 8, 2012, was received into and made part of the record. He asked if there were any personal appointments to be made.

Council Member Romero announced her personal appointment of Adam Weinstein to the ParkWise Commission.

Council Member Uhlich asked about the timeline for Mayor and Council recommendations to the Self Insurance Fund oversight body.

Michael Rankin, City Attorney, stated he would check on the timeline and provide the information to the Mayor and Council.

Council Member Scott announced her personal appointment of Reverend Raven Gaston to the Human Relations Commission.

**11. ADJOURNMENT: 7:19 p.m.**

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, May 15, 2012, at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

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MAYOR

ATTEST:

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CITY CLERK

# CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 8th day of May 2012, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

RWR:vv:jr